

BOBBIE STEIN  
Attorney at Law  
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Attorney for Petitioner  
JUAN MANUEL ANDAZOLA

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUAN MANUEL ANDAZOLA

Petitioner,

vs.

JEANNE S. WOODFORD, Director  
of the California Department of  
Corrections, and Richard Kirdland,  
Warden, Pelican Bay State Prison.

Respondent.

Case No.

MOTION FOR APPOINTMENT  
OF COUNSEL

TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA:

Petitioner **JUAN MANUEL ANDAZOLA**, hereby moves for an order of  
appointment of counsel to represent him in this proceeding, pursuant to the  
provisions of 18 U. S. C. Sec. 3006A (a)(2) (B). (28 U.S.C. sec. 1915, subd. (E)(1),  
2254, sub.(h).)

The undersigned counsel was appointed to represent Petitioner in his state  
court criminal appeal and represented him throughout all state court proceedings.  
Petitioner is unable to represent himself. He has no legal training and is not  
competent to present the claims herein. Furthermore, he is in custody.

Petitioner is unable to write legal argument, or to research and identify the

1 legal authority relevant to his claims. Thus, he personally can not provide assistance  
2 to this Court in analyzing the issues raised in the Petition. Should a hearing be  
3 ordered, he could not represent himself adequately.

4 Mr. ANDAZOLA, therefore, requires the assistance of an attorney to analyze  
5 and present the complex legal issues raised in this writ petition.

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8 **BACKGROUND INFORMATION**

9 As evidenced by the in forma pauperis declaration submitted by Mr.  
10 ANDAZOLA in connection with the Petition, he is unable to retain counsel. At the  
11 trial level he was represented by Contra Costa Alternate Public Defender Howard  
12 Jameson. Throughout the state appellate process, Mr. ANDAZOLA was represented  
13 by the undersigned counsel on a court appointed basis.

14 On the above grounds, and those presented in the memorandum filed with this  
15 motion, petitioner requests this court to appoint counsel in this proceeding. This  
16 motion is based on the motion and memorandum in support, the declaration of  
17 BOBBIE STEIN in support of the motion, and all the pleadings and other documents  
18 on file in this action.

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27 **MEMORANDUM OF POINTS AND AUTHORITIES**

28 Pursuant to 18 U.S.C. Sec. 3006A, the Court should appoint counsel to

1 represent indigent prisoners who are applying for habeas corpus relief “when justice  
2 so requires.”<sup>1</sup> (*Powell v. Livesay*, 600 F.Supp.82, 84 (M.D. Tenn.1987): see also  
3 *Weygandt. v. Look*, 718 F.2d 952, 954 (9<sup>th</sup> Cir. 1983.) In deciding whether to appoint  
4 counsel in a habeas proceeding, the district court must evaluate the likelihood of  
5 success on the merits as well as the ability of the petitioner to articulate his claim pro  
6 se in light of the complexity of the legal issues involved. (*Ibid.*)

7 The court must appoint counsel when the complexities of the case are such  
8 that denial of counsel would amount to a denial of due process and when the  
9 petitioner is a person of such limited education as to be incapable of presenting his or  
10 her claims in such a way that the court can afford him or her a fair hearing. (*Brown v.*  
11 *United States*, 623 F.2d 54, 61 (9<sup>th</sup> cir. 1980); *Hawkins v. Bennett*, 423 F.2d 948, 951  
12 (4<sup>th</sup> cir. 1970.).)

13 In the instant matter, this court should appoint counsel because of the complex  
14 legal issues which warrant federal review. A lawyer’s analysis is necessary to apply  
15 federal constitutional standards to the proceedings. A lay person with no  
16 sophisticated understanding of criminal law and appellate proceedings can not be  
17 expected to cite precedent, distinguish cases or present coherent argument.

18 Mr. ANDAZOLA does not have a sophisticated understanding of the law.  
19 While he is interested in his case, he brings no ability to litigate, meet deadlines, file  
20 documents, or appear in court. In this counsel’s opinion, Mr. ANDAZOLA could  
21 not adequately represent himself in this proceeding. Without appointed counsel,  
22 these proceedings would be distorted, to the detriment of both the Court and  
23 Petitioner. For these reasons, due process concerns dictate that petitioner be allowed  
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26 <sup>1</sup>Appointment of counsel is only mandatory in the is context if it is necessary  
27 to prevent a due process violation. “[T]he Sixth Amendment right to counsel does  
28 not apply in habeas corpus actions. Indigent state prisoners applying for habeas  
corpus relief are not [constitutionally] entitled to appointed counsel unless the  
circumstances of a particular case indicate that appointed counsel is necessary to  
prevent due process violations. (*Chaney v. Lewis*, 827 F.2d. 1191 (9<sup>th</sup> cir. 1986 . )

1 representation by court appointed counsel.

2 Accordingly, petitioner respectfully requests that this motion for appointment  
3 of counsel be granted and that the Court appoint counsel, BOBBIE STEIN, to  
4 represent petitioner in these proceedings.

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7 DATED: October 19, 2007

8 Respectfully submitted,

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12 BOBBIE STEIN

13 Appearing Specially for Petitioner

14 JUAN ANDAZOLA  
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**PROOF OF SERVICE BY MAIL**

I, Bobbie Stein, am over 18 years of age and not a party to the above action. My business address is 503 Dolores Street, Suite 201, San Francisco, California 94110.

On December , 2007, I served copies of the attached motion for appointment of counsel and declaration in support on the following people:

Attorney General  
455 Golden Gate Avenue  
rm 11000  
San Francisco, CA 94103

Juan Andazola  
V-15894-ASU-B-2  
Pelican Bay State Prison  
Crescent City, CA 95531

I declare under penalty of perjury that the foregoing is true and correct.  
Executed this day of December , 2007, in Oakland, California.

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Bobbie Stein